


**Government of the District of Columbia  
Office of the Chief Financial Officer**



**Natwar M. Gandhi**  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Vincent C. Gray  
Chairman, Council of the District of Columbia

**FROM:** Natwar M. Gandhi  
Chief Financial Officer 

**DATE:** February 2, 2010

**SUBJECT:** Fiscal Impact Statement – “Prohibition Against Selling Tobacco Products to Minors Amendment Act of 2009”

**REFERENCE:** Bill Number 18-428, Amendment in the Nature of a Substitute

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*This revised Fiscal Impact Statement reflects the changes made in the Amendment in the Nature of a Substitute, and it replaces the Fiscal Impact Statement issued by the OCFO on December 16, 2009.*

**Conclusion**

Funds are sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation.

**Background**

The proposed legislation would amend current law with regards to the sale of cigarettes, the licensing of other tobacco products and definitions of tobacco products. Specifically it would:

- Provide a property owner the authority to post signs stating that cigarette smoking is not permitted within 25 feet of the building.
- Prohibit an individual from purchasing cigarettes or other tobacco products on behalf of any person under the age of 18.
- Require that any person who sells cigarettes or other tobacco products ask for identification if the purchaser appears to be under 27. Currently, the law states that the person only needs to look 18.<sup>1</sup>

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<sup>1</sup> Since February 28, 1997, federal regulations have prohibited retailers from selling cigarettes, cigarette tobacco, or smokeless tobacco to any person under the age of 18, and have required retailers to check a photo identification of every person under the age of 27 who wishes to purchase such a product.

- Amend the warning signs already required under current law to be posted by a business that sells cigarettes or other tobaccos by having them also include language stating that the sales clerk will ask for proof of age for those individuals who appear to be under 27 years of age; and deleting any reference to the maximum fine for selling cigarettes to minors.
- Require that the Mayor collect and maintain a publicly available record of citations relating to the sale of cigarettes or other tobacco products by individuals to minors.
- Prohibit persons under 18 from attempting to buy or possess or actually buying or possessing cigarettes or other tobacco products, as well as from falsely representing their age, *e.g.* by presenting a false identification, in order to buy these products. It also would establish penalties for violations of these new rules.
- Prohibit the sale or distribution of tobacco products, except cigars, through a self-service display and make violating this provision a misdemeanor. The prohibition would not apply to vending machines or displays that are located in specialty tobacco stores.
- Prohibit the sale or distribution of a pack of cigarettes containing less than 20 cigarettes and make violating this provision a misdemeanor.
- Prohibit mobile vending motor vehicles that sell food, except licensed hotdog carts and food wagons, from selling any tobacco products and make violating this provision a misdemeanor.
- Provide new definitions for the following terms: cigar, original package, other tobacco product, and smokeless tobacco.
- Expand licensing requirements so that a license is needed in order to sell other tobacco products and not just cigarettes, as is the case under current law.
- Require that a cigarette or tobacco product vending machine display a warning sign and prohibit such machines from selling any non-tobacco products.
- Expand the law regarding seizure and forfeiture of property concerning cigarettes to also include other tobacco products.
- Allow the Department of Consumer and Regulatory Affairs to impose civil fines, penalties, and fees as alternative sanctions for any infraction of the provisions of Chapter 24 of Title 47 of the D.C Official Code.
- Make it illegal to sell cigar wrappers, including blunt wrappers.<sup>2</sup> Currently cigar leaf wrappers can be sold by an establishment that meets certain requirements.

### **Financial Plan Impact**

Funds are sufficient in the FY 2010 through FY 2013 budget and financial plan to implement the provisions of the proposed legislation. Most requirements of the proposed legislation are legal in nature, and must be implemented by businesses. The Metropolitan Police Department and the Department of Consumer and Regulatory Affairs could implement the provisions that would affect them—namely, maintaining a publicly available record of citations relating to the sale of cigarettes or other tobacco products by individuals to minors, and imposition of civil fines, penalties, and fees as alternative sanctions—using existing resources.

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<sup>2</sup> The proposed legislation provides a definition for what constitutes a "blunt wrap."

The proposed bill could result in a small decrease in sales tax revenue from cigar wrappers that are currently sold in specialty tobacco stores since their sale would no longer be permitted. There could also be a decrease in cigarette excise tax revenue if wholesalers who buy cigarettes to sell individually and/or street vendors reduce their purchases.<sup>3</sup> It is not possible, however, to reliably estimate the amount of this decrease in tax revenue, as there is no data available on such purchases. The bill could also result in increased revenue from the expanded licensing requirement and the higher fines. Again, it is not possible to reliably estimate this impact. The OFCO expects the impact from these changes to be negligible.

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<sup>3</sup> There would be no loss of sales tax revenue from cigarettes that are sold by vendors to customers. This is because street vendors are required to make a quarterly payment of \$375 in lieu of collecting and remitting sales tax (See D.C. Official Code § 47-2002.01).